

In re: Marsh et al.
Serial No.: 10/820,186
Filed: April 7, 2004
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REMARKS

I. Status of the Application

At the time of the Action, Claims 1, 4-11 and 13 were pending. Claim 5 stands rejected under Section 112, second paragraph. All pending claims stand rejected under either Section 102(b) or Section 103(a). These rejections are addressed below.

II. The Section 112, Second Paragraph Rejection

The Action rejects Claim 5 under Section 112, second paragraph for the recitations that compare the thickness of the "planar portion" of the projection and the thickness of the "base member" of the device. The Action included a diagram as "Attachment #1" that explained that, in examining this claim, the thickness of the "planar portion" was assumed to be that portion of the base member that is "across the void," and that the thickness of the "base member" was assumed to be that portion of the base member that was outside the void. Applicant hereby confirms that this interpretation of the claim language is correct, and has amended Claim 5 to clarify this point. As such, Applicant respectfully submits that this rejection has been obviated and requests that it be withdrawn.

III. The Rejections of Independent Claim 1

The Action rejects independent Claim 1 under Section 102(b) as anticipated by either of U.S. Patent No. 3,952,455 to McAlarney (McAlarney) or U.S. Patent No. 6,148,584 to Wilson (Wilson). The Action further rejects Claim 1 under Section 103(a) as obvious over any of U.S. Patent No. 2,161,648 to Widman (Widman), U.S. Patent No. 2,185,161 to Tinnerman (Tinnerman), or U.S. Patent No. 2,858,583 to McEvoy (McEvoy) in view of U.S. Patent No. 1,998,791 to Schanz (Schanz).

Applicant respectfully directs the Examiner's attention to amended Claim 1, which now recites that the clip of the device has:

a first member attached to one end portion of the base member and a second member attached to the first member, the base member, first member and second member defining a cavity within which one of the first or second furniture components is captured to affix the device thereto . . .

This structure is exemplified in the specification by panel **34b** and hook **37** in **Figures 4-6** and by portion **14** in **Figures 2 and 3**.

Turning to the cited references, none of the art cited in the Action includes this element of Claim 1. The structures **23** and **25** of McAlarney cited in the Action as a "clip" do not capture a furniture component to affix the device thereto (*see Figure 1* of McAlarney). The structure **163** of Wilson cited in the Action as a "clip" inserts into a component and does not "capture" the component to affix the device thereto as recited in Claim 1. None of Widman, Tinnerman, McEvoy have this feature either. The Schanz device, which is cited for the disclosure of a cushioning device and a clip, fails to disclose the configuration of the clip recited in Claim 1.

In view of the foregoing, Applicant submits that the rejections of Claim 1 and claims dependent therefrom under Section 102(b) based on McAlarney and Wilson cannot stand and should be withdrawn. In addition, Applicant submits that the rejections of Claim 1 and claims dependent therefrom under Section 103(a) based on any of Widman, Tinnerman or McEvoy in view of Schanz cannot stand because none of these references disclose at least one element of Claim 1.

IV. Rejections of Claim 5

The Action rejects Claim 5 under Section 102(b) based on McEvoy. The Action states that McEvoy discloses a base member **27** and **28** and a cushioning projection **25** extending outwardly from the base member and defining a void, wherein the projection has a planar portion opposite a convex portion across the void.

Applicant respectfully directs the Examiner's attention to amended Claim 5, which now recites, *inter alia*, that the projection has a convex portion and a planar portion opposite the

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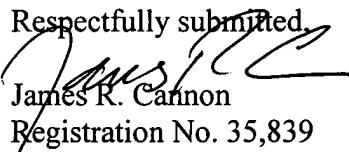
convex portion. The structure cited in Attachment #2 to the Action has a convex portion, but the portion opposite the convex portion is not planar; *i.e.*, it is not substantially constant in thickness, but instead varies in thickness across its length. As such, this structure does not meet the recitations of Claim 5. Accordingly, Applicant submits that McEvoy cannot anticipate Claim 5 under Section 102(b) and requests that this rejection and rejections of claims dependent on Claim 5 be withdrawn.

V. Rejections of Claim 13

Claim 13 stands rejected under Section 102(b) based on either of McAlarney or Wilson, and under Section 103(a) based on (i) McEvoy and Schanz and (ii) Tinnerman, Schnaz and Wilson. Claim 13 includes the same recitations regarding the structure of the clip as does Claim 1. As such, Claim 13 should be similarly free of the cited references. Consequently, Applicant requests that the rejections of Claim 13 be withdrawn.

VI. Conclusion

Inasmuch as all of the outstanding issues raised in the Action have been addressed, Applicants respectfully submit that the application is in condition for allowance, and requests that it be passed to allowance and issue.

Respectfully submitted,

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